

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA, Case No. 1:13-cr-121  
Plaintiff, Youngstown, Ohio  
vs.

MALEK M. AL MALIKI, MONDAY, MARCH 11, 2013  
Defendant.

TRANSCRIPT OF DETENTION HEARING PROCEEDINGS  
BEFORE THE HONORABLE GEORGE J. LIMBERT  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government: Michael A. Sullivan,  
*Assistant United States Attorney*

For the Defendant: David C. Jack, *Esquire*

For Pretrial Services: Marsha Tetrick

Official Court Reporter: Sarah E. Nageotte, RDR, CRR, CBC  
United States District Court  
801 West Superior Avenue  
Court Reporters 7-189  
Cleveland, Ohio 44113  
(216) 357-7186

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**MONDAY, MARCH 11, 2013**

Agent Gabrielle Hagan

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1 (Proceedings commenced at 9:20 a.m.)

2 - - -

3 COURTROOM DEPUTY: ... for business, the  
4 Honorable George J. Limbert presiding.

5 THE COURT: Please be seated.

6 COURTROOM DEPUTY: Court calls Case No.  
7 1:13-cr-121, United States of America versus Malek M. Al  
8 Maliki.

9 THE COURT: Okay. We're here for a detention  
10 hearing.

11 Are we going to have opening statements?

12 MR. SULLIVAN: No, Judge.

13 I'll waive opening statements and go right to the  
14 witness.

15 MR. JACK: I'll waive.

16 THE COURT: Okay. Is the Government prepared  
17 to call their first witness?

18 MR. SULLIVAN: Yes, Judge.

19 United States calls Agent Gabrielle Hagan.

20 (Witness was sworn)

21 THE COURT: How do you spell your  
22 [unintelligible]. H --

23 THE WITNESS: H-A-G-A-N.

24 THE COURT: A?

25 THE WITNESS: Yes.

1 THE COURT: Go ahead.

2 **DIRECT EXAMINATION**

3 **BY MR. SULLIVAN:**

4 **Q** Good morning.

5 **A** Good morning.

6 **Q** By whom are you employed?

7 **A** The Department of Homeland Security, Immigration and  
8 Customs Enforcement, Homeland Security investigations.

9 **Q** Sorry. I didn't mean to cut you off.

10 **A** That's okay. It's a long title.

11 **Q** In what capacity?

12 **A** I'm a special agent.

13 **Q** Are you familiar with the facts and circumstances  
14 regarding the investigation of Malek M. Al Maliki?

15 **A** Yes, I am.

16 **Q** Can you tell us briefly about that.

17 **A** Sure.

18 In approximately October of 2010, we received  
19 information from the Department of State regarding  
20 allegations of Mr. Al Maliki engaging in sexually explicit  
21 conduct with his two minor sons in Damascus, Syria.

22 **Q** And did you have an opportunity to investigate the  
23 case?

24 **A** I did.

25 **Q** All right. And just -- can you tell us some of

1        what -- describe some of your investigation for us.

2        **A**        Sure.

3                So one of the -- one of the initial allegations  
4        were -- you know, in addition to the sexual conduct with the  
5        two minor sons, some of the other things were that there was  
6        domestic abuse with his wife, as well as, for instance, like  
7        he would walk around naked in the apartment, so with the  
8        women and the children.

9                So in about May of 2011, I traveled to Mr. Al Maliki's  
10       residence to interview him.

11       **Q**        And where is that located?

12       **A**        That's in Cleveland, Ohio.

13       **Q**        Okay.

14       **A**        So myself and another agent knocked on the door, and  
15       there's a full, clear storm door, so he came to the door in  
16       just his underwear, his, like, BVDs, and so, I explained  
17       that -- you know, I asked to talk with him and if I could  
18       come in, so he said sure, but he would put on a pair of  
19       pants first, and so, he invited us in and we spoke to him in  
20       his residence.

21       **Q**        All right. And did you discuss with him the nature of  
22       the allegations?

23       **A**        Yes, I did.

24       **Q**        All right. And at that time, did he -- well, first of  
25       all, did he -- did he indicate whether or not he had

1 traveled to Syria?

2 **A** Yes. He stated that he had traveled to Syria, to  
3 Damascus, and that he stayed in the same apartment with his  
4 wife and children and that he actually stayed in a private  
5 room in the apartment.

6 **Q** All right. And did you ask him about the allegations  
7 of the sexual abuse?

8 **A** I did.

9 **Q** And did he admit or deny that?

10 **A** He denied all the allegations.

11 **Q** All right. And have you had an opportunity to  
12 interview or witness an interview of the child in this case?

13 **A** Yes, I have.

14 **Q** The children in this case?

15 **A** Yes.

16 **Q** All right. And have you also had an opportunity to  
17 interview Mr. Al Maliki's wife?

18 **A** Yes, I have.

19 **Q** And can you just -- and I know -- if you can just,  
20 again, give us briefly the nature of the allegations here.

21 **A** Sure.

22 One of the specific allegations was that -- and this  
23 is -- this was as a result of both the interview of his  
24 oldest child and his wife, was that he was naked in one of  
25 the rooms and he took his oldest child and undressed him and

1 placed him on top of him, on top of his penis, on -- Al  
2 Maliki's placed a child on Al Maliki's penis and attempted  
3 to penetrate him anally and was restraining him with his  
4 hands around the child's shoulders and holding him down on  
5 his lap.

6 The child screamed because he experienced pain and the  
7 mother came running in and basically kicked Mr. Al Maliki to  
8 get the child away from him.

9 **Q** Okay. And when you say pain, he experienced pain in  
10 his rectum?

11 **A** In his -- in his buttocks area, yes.

12 **Q** So he -- based on your investigation, it appears that  
13 he did achieve some penetration from that?

14 **A** Yes. The child was very clear that he did feel pain  
15 in his buttocks area.

16 **Q** Okay. And then, was there another incident with that  
17 same boy?

18 **A** Yes. Approximately five minutes after that incident,  
19 Mr. Al Maliki tried again to anally penetrate the oldest  
20 child.

21 **Q** Okay. And then, was there also an allegation  
22 regarding the younger boy?

23 **A** Yes.

24 **Q** And how old would he have been at that time?

25 **A** He would have been about three.

1       **Q**       Okay.

2       **A**       And so, the child was still taking breast milk at the  
3       time and was asking for milk from the mother. She was busy  
4       doing something and wasn't paying attention to him, and so,  
5       Mr. Al Maliki stated -- pulled out his penis from his pants  
6       and said, here's your breast, here's your milk, and the  
7       child was going over there to put his mouth on Mr. Al  
8       Maliki's penis when one of the women that also lived in the  
9       apartment pulled him away.

10      **Q**       Okay. All right. Now, also, in the course of your  
11      investigation, did you have an opportunity to confirm  
12      through travel records whether or not Mr. Al Maliki did  
13      travel to -- at about the time of these allegations?

14      **A**       Yes, he did, in fact.

15      **Q**       All right. And have you had an opportunity to review  
16      more of his travel records?

17      **A**       Yes, I have.

18      **Q**       All right. Can you give us kind of a summary of the  
19      type of travel that you've determined Mr. Al Maliki has  
20      engaged in over the recent past.

21      **A**       Sure.

22               So in 2012, he was gone for about ten months and he  
23      left in January, just on a one-way ticket from Chicago to  
24      Jordan, but he came back from Kuwait, via London, in October  
25      of that year. So, again, about ten months outside of the



1 country.

2 In, let's see, 2010, he was gone from August through  
3 November of 2010 and he was in Damascus, Syria at that time.

4 In 2009, he arrived to Detroit from the Netherlands  
5 and he had stated during his entry into the U.S. that he had  
6 been in Iraq for about five months.

7 Then, in 2008, he was inbound from Kuwait.

8 2007, he was inbound from Kuwait again.

9 2006, he was inbound from Morocco, and at that time,  
10 he had departed -- he was gone about a month at that time.

11 And then, 2002, inbound from Montreal on Royal Air  
12 Maroc from Casablanca.

13 And then, in 2001, he was inbound via a Royal  
14 Jordanian Air flight.

15 **Q** All right. And did you -- through your interview with  
16 his wife, did she note any unusual aspects of his travel?

17 **A** She stated that he will go overseas and claim that  
18 he's lost a passport and then get a new passport, which is  
19 actually consistent with his last travel. In 2012, he went  
20 out on one passport, claimed that it was lost, and then came  
21 back on a new passport.

22 **Q** And was there also -- during that last time, was there  
23 anything -- did you find anything unusual in his belongings?

24 **A** He actually -- he had an itinerary for travel from  
25 Beirut to -- for -- yeah, Beirut to Kuwait in another

1 person's name. So I'm not -- it's not his name, but it's --  
2 it's just an itinerary for travel for someone else's name.

3 **Q** But that was on his person when he traveled?

4 **A** Correct. Yes.

5 **Q** And that was observed during a [unintelligible]?

6 **A** Yes.

7 **Q** Now, have you also had an opportunity to interview any  
8 of the neighbors of Mr. Al Maliki?

9 **A** I have. I've interviewed four different neighbors.

10 **Q** And can you tell us the results of those interviews.

11 **A** Sure.

12 In a nutshell, all of them basically say that he  
13 leaves for about four to five months to go overseas and he  
14 normally leaves during the wintertime, comes back in the  
15 summertime.

16 But last year, different pattern. He left like  
17 around -- I think it was January or February and was gone  
18 for a long period of time. One of the neighbors said that  
19 he had gone to Iraq during that time.

20 **Q** Okay. And did one of them even notice some -- a  
21 situation with mail or have a conversation with the mail  
22 carrier?

23 **A** Yes. And that's how they knew that he had been in  
24 Iraq.

25 So the mail had been stacking up and a substitute mail

1 carrier came to this neighbor and asked them if the house  
2 had been vacated or -- or if they knew anything about Mr. Al  
3 Maliki's whereabouts and -- because -- because the mail had  
4 been stacking up.

5 Shortly after that, someone came to Mr. Al Maliki's  
6 looking for him and advised that neighbor that he was in  
7 Iraq and he travels to Iraq frequently.

8 **Q** Okay. And did you have an opportunity to -- in your  
9 investigation, do you know if Mr. Al Maliki has any family  
10 ties to the Northern District of Ohio?

11 **A** As far as I know, he doesn't have any family here.

12 MR. SULLIVAN: Okay.

13 Thank you.

14 I have nothing further.

15 THE COURT: Okay. Cross-examination?

16 MR. JACK: Thank you, Judge.

17 **CROSS-EXAMINATION**

18 **BY MR. JACK:**

19 **Q** Good morning.

20 **A** Good morning.

21 **Q** How long ago did these offenses take place in Syria  
22 that you described?

23 **A** It would have been August of 2010.

24 **Q** And when was your first involvement with these  
25 offenses?

1       **A**       We received the investigative lead in approximately  
2       October of 2010.

3       **Q**       So the offenses allegedly took place in August and you  
4       got informed in October of that year?

5       **A**       Correct.

6       **Q**       And when did you first travel -- did you travel to  
7       Syria?

8       **A**       No, I did not.

9       **Q**       Okay. The children, how old were they at the time of  
10      the offenses?

11      **A**       The oldest child would have been about 12 and the  
12      youngest child would have been about three.

13      **Q**       Okay. Has there been any interviews or conversations  
14      with the three-year old?

15      **A**       No.

16      **Q**       Has there been any interviews or conversations with  
17      the 12-year old by government-type agents?

18      **A**       Yes.

19      **Q**       You?

20      **A**       No. He was interviewed by a child forensic interview  
21      specialist.

22      **Q**       Where at?

23                   MR. SULLIVAN: Judge, can we just approach for  
24      one second?

25                   THE COURT: Yeah.

1 (Off-the-record bench conference held)

2 MR. JACK: Let me withdraw that question and  
3 ask it a different way.

4 **BY MR. JACK:**

5 **Q** Where were the agents from that interviewed the  
6 12-year old? What government agencies were they from? Were  
7 they from Syria? America?

8 **A** From the Department of Homeland Security, my agency,  
9 Immigration and Customs Enforcement.

10 **Q** Okay. Do you know if there were agents in Syria that  
11 interviewed the children?

12 **A** He was interviewed by someone from the embassy, with a  
13 translator there in Damascus, Syria at the embassy.

14 **Q** An American at the American Embassy in Syria  
15 interviewed the 12-year old, is that your -- is that what  
16 you're saying?

17 **A** I'm not sure if she's an American citizen, but  
18 she's -- she was an employee of the embassy and there was --  
19 there was a translator as well that assisted with obviously  
20 the interview in Arabic.

21 **Q** Okay. To your knowledge, how many people have  
22 interviewed the 12-year old?

23 **A** Just two.

24 **Q** That would be this individual from the embassy and  
25 yourself?

1       **A**       And the child interview forensic specialist.

2       **Q**       The child -- from Homeland Security?

3       **A**       Correct.

4       **Q**       Are there written statements, recorded statements of  
5       these interviews?

6       **A**       Yes, there are.

7       **Q**       The mother, have you interviewed the mother?

8       **A**       Yes, I have.

9       **Q**       You personally interviewed the mother?

10      **A**       Yes.

11      **Q**       Do you know how many other government-type agents have  
12      interviewed the mother?

13      **A**       So she gave a couple of statements to the vice consul  
14      at the embassy there in Damascus, Syria. I have interviewed  
15      her. As far as I know, there haven't been any other  
16      interviews with any, you know, government agencies or  
17      government entities.

18      **Q**       So you're thinking about three?

19      **A**       Something like that perhaps.

20      **Q**       And you have read and seen all of these statements,  
21      they're recorded in some fashion?

22      **A**       They're written, yes.

23      **Q**       The offenses that you described, the attempted anal  
24      penetration of the 12-year old, and the three-year old took  
25      place on the same day at the same time?

1       **A**       No. They were on different days.

2       **Q**       Oh, they were on different days?

3       **A**       Correct.

4       **Q**       How many days apart approximately?

5       **A**       Maybe a week apart, somewhere around that timeframe.

6       **Q**       Okay. I heard you say something, and I apparently  
7       misunderstood, something about five minutes later.

8               What -- I misunderstood what you said I think.

9       **A**       Sure.

10              The five-minute-later incident was with the oldest  
11       child where Mr. Al Maliki again attempted anal penetration  
12       with the oldest child again.

13       **Q**       Okay. So, as I understand your testimony, there was  
14       this attempt to have anal penetration that the child  
15       screamed or something, the mother came into the room, then  
16       left with the child or -- what was the second incident?  
17       What happened in the second incident?

18       **A**       That he, again, just took the child into a -- another  
19       room and attempted the anal penetration.

20       **Q**       Five minutes later?

21              And then, a week later was this incident about the  
22       milk with the three-year old?

23       **A**       Yes.

24              Again, I would have to look to tell you exactly, you  
25       know, the -- the days, but it's somewhere around that

1       timeframe.

2       **Q**       Okay. That's fine. It doesn't have to be exact.

3               Witnesses to these incidents, I assume there's the  
4       mother and the 12-year old child?

5               Regarding the 12-year old, there's the mother and the  
6       12-year old child.

7               Any other witnesses to these -- that incident?

8       **A**       There were actually three Iraqi women whose apartment  
9       they stayed in who witnessed these incidents.

10      **Q**       These are Iraqi women, but we're talking about Syria?

11      **A**       Correct.

12              They -- I believe -- it's my understanding that they  
13       were refugees and they were living in Syria at the time.

14      **Q**       So there's three other witnesses in addition to the  
15       mother?

16      **A**       Correct.

17      **Q**       And the -- and the 13 year -- or 12-year old.

18              Any other witnesses that you're aware of?

19      **A**       Not that I'm aware of.

20      **Q**       All right. This incident with the three-year old, how  
21       many witnesses are there to that?

22      **A**       The oldest child witnessed that.

23      **Q**       Oldest child witnessed that?

24      **A**       Yes.

25      **Q**       I believe you said that another woman intervened and



1 took the child, took the three-year old from doing it.

2 Who's that person?

3 **A** It's one of the three Iraqi women.

4 **Q** All right. It was -- that was a witness to the  
5 incident with the 12-year old --

6 **A** Correct.

7 **Q** -- that was living in the apartment --

8 **A** Correct.

9 **Q** -- in Syria?

10 The -- the charge in this case is that he traveled to  
11 Syria to -- with the purpose to commit this offense --

12 MR. SULLIVAN: Objection.

13 Not sure if he's asking for a legal opinion.

14 That's actually not the charge, Judge. There's no --  
15 the charge doesn't require an intent prior to travel to  
16 engage in sex. There -- the charge actually just requires  
17 travel in foreign commerce and engaging in illicit sexual  
18 conduct. It doesn't have to be the intention at the time of  
19 the travel.

20 THE COURT: All right. Well, you can go just  
21 by the Indictment I guess.

22 MR. JACK: Yeah.

23 **BY MR. JACK:**

24 **Q** Do you have any knowledge or evidence that my client  
25 traveled to Syria with the intent to commit sexual offenses

1       against these children?

2       **A**       I mean, I can't say what his intent is or isn't.

3       **Q**       But do you know of any is my question?

4       **A**       Again, you know, there's no way I can ascertain what  
5       someone's intent is when they travel.

6       **Q**       Nobody told you? Nobody made a statement to you that  
7       he intended to travel there for that purpose?

8       **A**       Correct. He did not tell me that he intended to  
9       travel for that purpose.

10      **Q**       Was there an investigation or criminal charges brought  
11      by Syrian officials against my client as opposed to American  
12      officials?

13      **A**       No.

14      **Q**       Do you know the reason for that?

15      **A**       It's my understanding that law enforcement is not  
16      necessarily all that open to filing charges against men  
17      there.

18      **Q**       So, to your knowledge, was there any kind of  
19      investigation opened with the Syrian officials?

20      **A**       No.

21      **Q**       Officials from any other country other than the United  
22      States, was there any type of investigation into these  
23      charges?

24      **A**       No. It was -- the embassy referred it to us because  
25      he was a U.S. citizen.

1       **Q**       The wife, what is her name?

2       **A**       Hinda El Rhannai [phonetic].

3       **Q**       Is there some question about the marriage -- the  
4       initial marriage between the husband and the -- or the  
5       defendant and the wife?

6       **A**       I -- what I know is that they were married in an  
7       Islamic ceremony initially and then were married in -- I  
8       believe in September of 2000 and they have a marriage  
9       certificate in -- from -- issued from Cuyahoga County.

10      **Q**       Okay. So he was married in Cleveland?

11      **A**       Correct.

12      **Q**       Have they been divorced?

13      **A**       As far as I know, they are not divorced.

14      **Q**       Did she give any indication why she is not divorced?  
15      Why they are not divorced?

16      **A**       No. All I know is that he instructed -- Mr. Al Maliki  
17      instructed his wife to travel to Syria and to wait there and  
18      it was her impression that he was following through with the  
19      paperwork that needed to be filed so that she could become a  
20      resident as well of the United States.

21      **Q**       Did you have any concerns that the wife, who's  
22      separated, was bringing allegations merely to get an  
23      advantage in the divorce proceedings?

24      **A**       No. You know, she was -- when she went to the embassy  
25      in Damascus, the vice consul there, Mark Goldrup, he

1 physically observed bruises on her legs and that she was  
2 having difficulty in walking, which is consistent with, you  
3 know, the allegations of physical abuse.

4 **Q** You didn't get any indication that she was trying to  
5 get an advantage by having -- having the defendant placed in  
6 custody for divorce purposes or for spiteful reasons?

7 **A** No. And in fact, she's never mentioned to me about  
8 divorce proceedings.

9 **Q** Okay. Is there any DNA evidence of any of these  
10 crimes?

11 **A** Not that I'm aware of.

12 **Q** Is there any other scientific-type reports or  
13 information or investigations relative to these offenses?

14 **A** Not that I'm aware of.

15 **Q** How long -- I believe the timeframe you said was these  
16 allegations against the 12-year old took place in about  
17 August of 2010 and that you became involved or the embassy  
18 became involved in October of 2010.

19 When was the first statement taken from the 12-year  
20 old?

21 **A** Let's see, it's actually in another folder, but I want  
22 to say somewhere around -- between October and maybe  
23 December was when he was interviewed.

24 **Q** Okay. So he's not interviewed until months after this  
25 incident, is that fair to say?

1       **A**       That's my recollection, but I can't say with a hundred  
2       percent certainty.

3                       MR. JACK: Can I have a moment, Judge?

4                       THE COURT: Sure.

5                               (Pause in Proceedings)

6                       MR. JACK: Nothing further.

7       Thanks, Judge.

8                       THE COURT: Okay. Redirect?

9                       MR. SULLIVAN: Briefly.

10       Thank you, Judge.

11                               **REDIRECT EXAMINATION**

12       **BY MR. SULLIVAN:**

13       **Q**       Agent, I just want to go back to the -- to ask you  
14       some questions about the -- who interviewed the -- the  
15       oldest child.

16                       So just to be clear, so you indicated that he was  
17       interviewed at the embassy?

18       **A**       Correct.

19       **Q**       Okay. And then, he was interviewed by a child victim  
20       specialist from your agency?

21       **A**       Correct.

22       **Q**       All right. And then, you have met with him, have you  
23       not?

24       **A**       Yes, I have. I have.

25       **Q**       Okay. So, actually, he's been interviewed -- I mean,

1       you also have talked to him about the allegations?

2       **A**       Yes. That's correct.

3       **Q**       And that was at a meeting with an attorney from  
4       Washington and myself, correct?

5       **A**       Yes. That is correct.

6       **Q**       All right. And then, you also -- there was some  
7       indication about Mark Goldrup at the embassy?

8       **A**       Yes.

9       **Q**       And you indicated that he had met with the wife and  
10      had noted bruising on her legs and her difficulty walking?

11      **A**       That's correct.

12      **Q**       All right. Did he also have an opportunity to meet  
13      with at any point Mr. Al Maliki?

14      **A**       Yes, he did.

15      **Q**       And can you tell us, based on your conversations with  
16      Mark Goldrup, what was his impression of Mr. Al Maliki?

17      **A**       He stated, in his words, that he felt Mr. Al Maliki  
18      was duplicitous.

19                      MR. SULLIVAN: Okay.

20                      Thank you.

21                      I have nothing further.

22                      THE COURT: I'm curious, are both children  
23      citizens of the United States?

24                      THE WITNESS: Yes, they are.

25                      THE COURT: The wife?

1 THE WITNESS: She is not.

2 THE COURT: Okay. All right. You may be  
3 excused.

4 Do you want to call your next witness?

5 MR. SULLIVAN: Judge, we have no further  
6 witnesses.

7 THE COURT: Okay.

8 MR. JACK: No witnesses, Judge.

9 But I would like to make a proffer.

10 THE COURT: Okay. Is this a statement you're  
11 going to make?

12 MR. JACK: Yes.

13 THE COURT: Okay.

14 MR. JACK: I don't intend on calling any  
15 witnesses or the defendant.

16 THE COURT: I understand.

17 Go ahead.

18 MR. JACK: Thank you, Judge.

19 Malek has been a resident of Cleveland, Ohio since  
20 about 1992. He came here as a refugee because he's from  
21 Iraq. He was born and raised in Iraq. And in his 30s,  
22 after the war in 1992, he came here as a refugee. He's been  
23 here ever since.

24 He owns his home, his own home in Cleveland. Not only  
25 does he own it, it doesn't have any mortgage on it. So I

1 think, in terms of risk of flight, that that weighs  
2 significantly against it, because unlike some people who may  
3 own a house but the mortgage encumbers the whole balance,  
4 they wouldn't lose much by fleeing. He would. He owns a  
5 home and it's paid for.

6 He also receives social security. He's disabled as a  
7 result of basically three different car accidents and he  
8 receives \$900 a month. If he would flee, he would leave --  
9 lose that income on a monthly basis, so I think it weighs  
10 against that.

11 THE COURT: I thought that no matter where  
12 they reside, they would collect their SSI?

13 MR. JACK: Well, I think -- I think an  
14 implication that the Government is making, they're afraid  
15 that he's going to go overseas.

16 THE COURT: Yeah. Well --

17 MR. JACK: So --

18 THE COURT: Because I know people collect  
19 social security overseas when they're over there.

20 MR. JACK: But if he flee -- it just doesn't  
21 seem to make sense that he would give an address where he  
22 went, no matter where he went.

23 THE COURT: All right.

24 MR. JACK: That's kind of the point I was  
25 making.



1           He has no -- no involvement with any kind of drugs in  
2 his lifetime.

3           As far as a danger to the community, I don't see he's  
4 a danger to the community at all. I don't think there's  
5 been any evidence or testimony.

6           The issue here would be a flight risk, I would think  
7 would be the Court's major concern.

8           THE COURT: Uh-huh.

9           MR. JACK: And he has no priors. He has no --  
10 he has two driving under suspensions, a long time ago, 1997.  
11 Those are the only two offenses that he has. No contempts.  
12 Not failed to appear for any court appearances.

13           I'm asking that you impose some type of a bond.

14           Thank you.

15           THE COURT: Does he have any family ties in  
16 Cleveland?

17           MR. JACK: Not much, Judge.

18           THE COURT: Okay. Okay.

19           Thank you.

20           MR. JACK: Uh-huh.

21           THE COURT: You may proceed.

22           MR. SULLIVAN: Thank you, Judge.

23           Judge, first of all, I --

24           THE COURT: Let me ask, is that your closing  
25 argument, too?

1 MR. JACK: Yes.

2 THE COURT: Okay. I just want to make sure.

3 Go ahead. I'm sorry.

4 MR. SULLIVAN: That's okay.

5 Thank you.

6 All right. Judge, as you know, the two charges for  
7 which the defendant has been indicted both carry a statutory  
8 presumption for detention, so there is a statutory  
9 presumption.

10 THE COURT: Rebuttable presumption.

11 MR. SULLIVAN: Rebuttable.

12 But still a presumption that no condition or  
13 combination of conditions could assure the safety of the  
14 community or his appearance.

15 And it would be the Government's position that  
16 presumption has been strengthened and not rebutted during  
17 the course of this hearing.

18 In this case, we have a man with absolutely no ties,  
19 not only to the Northern District of Ohio, but really no  
20 ties to the United States.

21 He does own his home in Cleveland, but as you can see  
22 from the Pretrial Services' report, he -- it apparently is  
23 not in very good shape. The tax records say that it's worth  
24 \$51,000 and Mr. Al Maliki says it's only worth about  
25 \$20,000. So, clearly, it is not a home that's in good

1       shape. It is not an overly valuable home.

2               Mr. -- and as Your Honor pointed out, he still can  
3       collect his social security when overseas and he certainly  
4       demonstrated that over the past year, when he was gone  
5       almost for the entire year of 2012 and was still collecting  
6       his SSI.

7               Additionally, Mr. Jack says it's unlikely that he  
8       would give an address overseas, but I'm pretty sure that the  
9       countries from which Mr. Al Maliki hails and resides do not  
10      have really a friendly extradition with the United States,  
11      so there would not be much fear of him staying where he was,  
12      if he was in Syria or Iraq, because we wouldn't be able to  
13      get him back.

14              So the evidence has demonstrated that we have a man  
15      who travels at length and repeatedly overseas. We have --  
16      there has been some evidence that he is somewhat -- I'm not  
17      sure of the right term -- but he has some issues with  
18      passports, according to the statement made by his wife. He  
19      plays around with passports and is somewhat deceitful with  
20      them.

21              We have evidence from his neighbors that he, again, is  
22      gone for large periods of time and it's confirmed by his  
23      travel records, which shows that he travels regularly.

24              It's a case that carries a very lengthy potential jail  
25      sentence. He's facing up to 30 years on each count as

1 charged. It's a very serious offense involving his --  
2 sexual abuse of his two minor -- attempted sexual abuse of  
3 one child and the abuse of the other.

4 But mostly, Judge, it's a -- the issue here is that he  
5 has absolutely no ties. He's got no employment here. He's  
6 got no ties to the -- to this community, other than his  
7 home. He's got extensive ties outside of the country. He  
8 is originally from the Middle East and regularly travels  
9 there.

10 So it would be the Government's position that the  
11 statutory presumption has certainly not been rebutted, it's  
12 been strengthened in this case, and we would ask you to  
13 order his detention.

14 THE COURT: Is there a mandatory minimum on  
15 this case?

16 MR. SULLIVAN: There is not a mandatory  
17 minimum.

18 THE COURT: Okay. Just curious.

19 Do you want to respond? Since I don't know whether --  
20 you know, you pretty much had your closing argument, but you  
21 may want to add something.

22 MR. JACK: Just briefly, Judge.

23 I think, since he's not employed, house arrest would  
24 be an alternative that would give the Government a little  
25 more -- a little more assurance of appearance and better

1 monitoring for him.

2 And -- and I would suggest that that may be a  
3 reasonable alternative for the Court.

4 THE COURT: Okay.

5 Thank you.

6 All right. I -- I realize he doesn't have an  
7 extensive criminal record, if you want to even call it a  
8 criminal record; however, I -- I believe he is a risk of  
9 flight.

10 Because of the rebuttable presumption, which has not  
11 been overcome, and his ties to the U.S. are minimal, and he  
12 even claims the house is only worth 20-some thousand  
13 dollars, I mean, if you're looking at 30 years on each  
14 count, I mean, I don't think \$20,000 would be an incentive  
15 to stay in this country.

16 And I -- I am concerned whether, if he does go to Iraq  
17 or Syria, well, I don't think he'll go to Syria, but if he  
18 goes to Iraq, extradition could be rather difficult, it's my  
19 understanding, so I think there's a strong argument that  
20 he's a risk of flight.

21 Danger to the community, that's minimal. I'm not sure  
22 that I would accept that argument.

23 But I do believe that he is a risk of flight, so,  
24 therefore, I'm ordering him detained and remand him to the  
25 custody of the U.S. Marshals.

1 And we are adjourned.

2 COURTROOM DEPUTY: All rise.

3 - - -

4 (Proceedings concluded at 9:56 a.m.)

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8 **C E R T I F I C A T E**

9

10 I certify that the foregoing is a correct transcript  
11 from the record of proceedings in the above-entitled matter.  
12 This transcript was prepared to the best of my ability from  
13 a digital audio recording of the proceedings provided by the  
14 Court.

15

16 /s/ Sarah E. Nageotte 4/26/2013  
17 SARAH E. NAGEOTTE, RDR, CRR, CBC DATE

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